

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RAHUL TELANG and ASHWINI)	<i>Electronically Filed</i>
GANDHE, husband and wife,)	
)	No. 2:19-cv-01025-WSH
Plaintiffs,)	
)	Honorable W. Scott Hardy
v.)	
)	
NVR, INC. t/d/b/a RYAN HOMES,)	
)	
Defendant.)	

**NVR, INC.'S RESPONSES TO
PLAINTIFFS' SEPARATE AND CONCISE STATEMENT OF MATERIAL FACTS**

Defendant, NVR, Inc. t/d/b/a Ryan Homes (“NVR”), by and through its undersigned counsel, Kathleen A. Gallagher, Russell D. Giancola, and Gallagher Giancola LLC, hereby files these responses to Plaintiffs’ separate and concise statement of material facts relating to NVR’s motion for summary judgment, as follows:

1. Denied. The documents cited by Plaintiff refer to different versions of the Highgrove model which were not used at the time of the construction of Plaintiffs’ home. *See* NVR’s Concise Statement of Material Facts, ECF 57, ¶ 9. Moreover, the HVAC layout in Version 8 of the Highgrove model was conceptual; the ultimate layout was installed by the contractor. The Version 8 layout merely represented NVR’s assumption of where the contractor would install HVAC. (Simon Dep., attached as Ex. R, at 23). Version 10 of the Highgrove model represented the “first house where [NVR] did a fully engineered HVAC design and expected contractors to follow the exact layout.” *Id.* The Plaintiffs’ home, Version 9, was created in response to “a lot of [building] code changes that were requiring numerous design alterations,” and predated Version 10’s fully engineered HVAC design. *Id.* at 25.

2. Denied. *See ¶ 1, supra.*

3. Denied. *See ¶ 1, supra.*

4. Denied. The documents within Exhibit 4 of Plaintiffs' Appendix (and referenced in Exhibit 6 of Plaintiffs' Appendix) are dated after the Plaintiffs' home furnace was installed. The August 2007 GKS9 Gas-Fired Warm Air Furnace Installation Instructions, which would have applied to the Plaintiffs' home, provides only that "Filters must be installed in either the central return register or in the return air duct work" and that "Filters in horizontal installations are located in the central return register or the ductwork near the furnace." The Plaintiffs' HVAC was installed pursuant to these installation instructions. (Report of Armin Rudd, attached as Ex. S, at 37–43).

5. Denied. Although Mr. Stein testified the implementation was adopted in 2009, Mr. Simon testified it may have been implemented as late as 2017. (Simon Dep., attached as Ex. R, at 92). In either event, the implementation of this design occurred years after Plaintiffs purchased their home. *See* NVR's Concise Statement of Material Facts, ECF 57, ¶ 52. Further, this implementation was designed to protect HVAC contractors during the installation of HVAC systems, when two or three workers are on the attic platform at the same time while carrying and installing the HVAC unit. (Stein Dep., attached as Ex. T, at 64–65).

6. Denied. Mr. Simon estimated only that two-by-four would cost "approximately less than \$10." (Pl.'s Ex. 2 at 88).

7. Admitted. By way of further response, *see* NVR's Concise Statement of Material Facts, ECF 57, ¶¶ 6, 7, 46–51.

Dated: January 24, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2022, a true and correct copy of the **Responses to Plaintiffs' Separate and Concise Statement of Material Facts** has been electronically served via CM/ECF on the below counsel of record:

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